

Title 31. OIL AND GAS

Chapter 31.05. ALASKA OIL AND GAS CONSERVATION ACT

Article

1. Administration (31.05.005 – 31.05.093)
2. Regulation of Operations (31.05.090 – 31.05.120)
3. General Provisions (31.05.150 – 31.05.170)

Article 1. ADMINISTRATION

Section

05. Alaska Oil and Gas Conservation Commission created
07. Term of office; vacancy; removal
09. Qualification of members
10. (Repealed)
11. Quorum
13. Oath of Office
15. Compensation of members of the commission
17. Principal office; seal
20. (Renumbered as AS 31.05.095)
21. Legal counsel
23. Commission staff
25. Conflict of interest
26. Relationship to Department of Natural Resources
27. Land subject to commission's authority
30. Powers and duties of commission
35. Confidential reports
40. Regulations and orders
50. Notice
60. Action by commission
70. Attendance and testimony of witnesses
80. Rehearings and appeals
85. Expenses of investigation or hearing
93. Regulated well regulatory cost charge

Sec. 31.05.005. Alaska Oil and Gas Conservation Commission created.

(a) There is created as an independent quasi-judicial agency of the state the Alaska Oil and Gas Conservation Commission, composed of three commissioners appointed by the governor and confirmed by the legislature in joint session. In making appointments to the commission under AS 31.05.009 (1) and (2) and this subsection, the governor shall consider and give preference to a person who demonstrates experience in oil and gas operations in the state.

(b) The governor shall designate one member of the commission as chair of the commission. This member shall serve as chair for a term of four years, but may not be appointed for successive terms as chair of the commission.

Sec. 31.05.007. Term of office; vacancy; removal.

(a) The term of office of each member is six years. A commissioner, upon the expiration of a term, shall continue to hold office until a successor is appointed and qualified.

(b) A vacancy arising in the office of a commissioner shall be filled by appointment by the governor and confirmed by the legislature in joint session, and, except as provided in AS 39.05.080 (4), an appointee selected to fill a vacancy shall hold office for the balance of the full term for which the predecessor on the commission was appointed.

(c) A vacancy in the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission.

(d) The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges and afforded an opportunity to be publicly heard in person or by counsel in the commissioner's own defense upon not less than 10 days' notice. If a commissioner is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the commissioner and the governor's finding based on the charges, together with a complete record of the proceedings.

Sec. 31.05.009. Qualifications of members.

Members shall be qualified as follows:

(1) one member shall be a petroleum engineer who

(A) holds a certificate of registration as an engineer under AS 08.48 and, under regulations adopted to implement that chapter, has qualified as a petroleum engineer; or

(B) has earned a degree from a university in the field of engineering and has at least 10 years of professional subsurface experience in the oil and gas industry in drilling, well operations, production process operations, reservoir engineering, or a combination thereof; for the purposes of this subparagraph, a person meets the requirement of earning a degree in the field of engineering if the person obtains an undergraduate or graduate degree in engineering that meets the requirements for program accreditation by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology and the person completes university or industry training specific to petroleum engineering that illustrates application of engineering principles to the problems encountered and methods used in the petroleum industry, including drilling, production, reservoir engineering, fluid flow through subsurface formations, and hydrocarbon transportation;

(2) one member shall be a geologist who

(A) holds a certification as a professional geologist under AS 08.02.011 and has professional experience in the field of petroleum geology; or

(B) has earned a degree in the field of geology from a university accredited in the field of geology and has a minimum of 10 years professional experience in the field of petroleum geology; and

(3) one member who need not be certified, trained, or experienced in either the field of petroleum engineering or the field of petroleum geology.

Sec. 31.05.010. Application. [Repealed by Sec. 4 ch 158 SLA 1978].

Repealed or Renumbered

Sec. 31.05.011. Quorum.

Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty, or for the exercise of a power of the commission.

Sec. 31.05.013. Oath of office.

Each commissioner, before entering upon the duties of office, shall take and subscribe to the oath prescribed for principal officers of the state.

Sec. 31.05.015. Compensation of members of the commission.

Members of the commission are in the exempt service and shall receive an annual salary.

Sec. 31.05.017. Principal office; seal.

(a) The commission shall establish a principal office and branch offices necessary to discharge its business efficiently. For the convenience of the public or of parties to a proceeding the commission may hold meetings, hearings or other proceedings at other locations.

(b) The commission shall have an official seal.

Sec. 31.05.020. [Renumbered as AS 31.05.095].

Repealed or Renumbered

Sec. 31.05.021. Legal counsel.

(a) The Department of Law shall provide full-time legal counsel to the commission. The legal counsel provided by the Department of Law is subject to the approval of the commission.

(b) The commission may, subject to the approval of the attorney general, contract for the services of additional specialized legal counsel or legal consultants.

Sec. 31.05.023. Commission staff.

(a) The commission shall employ such staff as it considers necessary to carry out its responsibilities.

(b) The professional staff of the commission and the personal secretary of each commissioner are in the exempt service under AS 39.25.110.

(c) The secretarial and clerical staff of the commission, except the personal secretary of each commissioner, are in the classified service.

(d) In addition to its staff of regular employees, the commission may contract for and engage the services of consultants and experts the commission considers necessary.

Sec. 31.05.025. Conflict of interest.

(a) Members and employees of the commission, except clerical and secretarial staff, are subject to AS 39.50.

(b) A member of the commission is disqualified from voting upon any matter before the commission in which the member has a conflict of interest.

Sec. 31.05.026. Relationship to Department of Natural Resources.

(a) The Department of Natural Resources shall have standing before the commission to raise all issues relating to state-owned land without regard to the type of proprietary interest held by the state in that land.

(b) With respect to federal land from which the state or any subdivision of the state is entitled under federal law to receive a share of the federal royalty interest, the Department of Natural Resources shall have the same standing before the commission as if it were the holder of the equivalent royalty interest.

(c) When both the Department of Natural Resources and the commission have the authority to require, and do require, the submission of substantially the same information from persons subject to this chapter, the commission, in order to alleviate the administrative burdens placed on those persons, may by regulation enter into an agreement with the Department of Natural Resources whereby either the commission or the Department of Natural Resources shall have the responsibility to collect the information lawfully required by both.

(d) For budget and audit procedures and considerations, the commission shall have the same standing as any other major state agency. Whenever practicable the commission may enter into state interagency agreements concerning administrative, employee relations, and fiscal duties.

(e) The Department of Natural Resources shall have the same standing (no more or less) before the commission as granted by law to any other proprietary interest.

Sec. 31.05.027. Land subject to commission's authority.

The authority of the commission applies to all land in the state lawfully subject to its police powers, including land of the United States and land subject to the jurisdiction of the United States. The authority of the commission further applies to all land included in a voluntary cooperative or unit plan of development or operation entered into in accordance with AS 38.05.180 (p).

Sec. 31.05.030. Powers and duties of commission.

(a) The commission has jurisdiction and authority over all persons and property, public and private, necessary to carry out the purposes and intent of this chapter.

(b) The commission shall investigate to determine whether or not waste exists or is imminent, or whether or not other facts exist which justify or require action by it.

(c) The commission shall adopt regulations and orders and take other appropriate action to carry out the purposes of this chapter.

(d) The commission may require

(1) identification of ownership of wells, producing leases, tanks, plants and drilling structures;

(2) the making and filing of reports, well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other subsurface information on a well drilled for oil or gas, or for the discovery of oil or gas, or for geologic information, and the required reports and information shall be filed within 30 days after the completion, abandonment, or suspension of the well;

(3) the drilling, casing and plugging of wells in a manner that will prevent the escape of oil or gas out of one stratum into another, the intrusion of water into an oil or gas stratum, the pollution of fresh water supplies by oil, gas or salt water, and prevent blowouts, cavings, seepages and fires;

(4) the furnishing of a reasonable bond with sufficient surety conditions for the performance of the duty to plug each dry or abandoned well or the repair of wells causing waste;

(5) the operation of wells with efficient gas-oil and water-oil ratios, and may fix these ratios;

(6) the gauging or other measuring of oil and gas to determine the quality and quantity of oil and gas;

(7) every person who produces oil or gas in the state to keep and maintain for a period of five years in the state complete and accurate records of the quantities of oil and gas produced, which shall be available for examination by the Department of Natural Resources or its agents at all reasonable times;

(8) the measuring and monitoring of oil and gas pool pressures;

(9) the filing and approval of a plan of development and operation for a field or pool in order to prevent waste, insure a greater ultimate recovery of oil and gas, and protect the correlative rights of persons owning interests in the tracts of land affected.

(e) The commission may regulate

(1) for conservation purposes

(A) the drilling, producing, and plugging of wells;

(B) the shooting and chemical treatment of wells;

(C) the spacing of wells;

(D) the disposal of salt water, nonpotable water, and oil field wastes;

(E) the contamination or waste of underground water;

(F) the quantity and rate of the production of oil and gas from a well or property; this authority shall also apply to a well or property in a voluntary cooperative or unit plan of development or operation entered into in accordance with AS 38.05.180 (p);

(2) the disposal of drilling mud, cuttings, and nonhazardous drilling operation wastes in the annular space of an oil or gas well or in the annular space of a water well associated with oil or gas exploration and production; in this paragraph, a "nonhazardous drilling operation waste" means a waste, other than a hazardous waste identified by the Environmental Protection Agency in 40 C.F.R., Part 261, its regulation identifying and listing hazardous wastes, associated with the act of drilling an oil or gas well for exploratory or production purposes.

(f) The commission may classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter.

(g) When the commission finds sufficient likelihood of an unexpected encounter of oil, gas, or other hazardous substance as a result of well drilling in an area of the state, the commission may, by regulation, designate the area and specify a depth in the area as one in which wells or any boring into the soil in excess of the specified depth but not otherwise subject to this chapter are subject to the regulations and requirements adopted under this section. The designation of an area or specification of a depth under this subsection does not constitute a certification that no hazardous substance will be encountered in another area or at a lesser depth, and the state is not liable for any damages arising from such an unexpected encounter of a hazardous substance.

(h) The commission may take all actions necessary to allow the state to acquire primary enforcement responsibility under 42 U.S.C. 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f-300j), for the control of underground injection related to the recovery and production of oil and natural gas.

(i) The commission shall accept written plans submitted by lessees for purposes of AS 38.05.180 (f)(5). If a lessee submits a plan, the commission shall hold a public hearing on the plan and, within 45 days after receipt of the plan, grant approval of the plan if the plan contains a voluntary agreement by the lessee to use its best efforts to employ residents of this state, consistent with law, and to contract with firms in this state for work in connection with the development of the field, including the fabrication and installation of required facilities, whenever feasible. The decision of the commission to grant approval may not be appealed.

Sec. 31.05.035. Confidential reports.

(a) For all wells for which a permit to drill has been issued by the commission since January 3, 1959, the commission may require:

(1) the making and filing of reports, well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other subsurface information on a well drilled for oil or gas, or for the discovery of oil or gas, or for geologic information;

(2) the filing of flow test information and all logs, except experimental logs and velocity surveys run on a well and not required by (1) of this subsection; and

(3) the operator to make available for copying the digitized log information, if it is available, on any log required to be filed under (1) or (2) of this subsection.

(b) Reports and information required under (a)(1) and (2) of this section shall be filed within 30 days after the completion, abandonment, or suspension of a well. However, under (a)(1) of this section, the commission may not require the making of a log on a well completed, abandoned or suspended before June 19, 1970.

(c) The reports and information required in (a) of this section shall be kept confidential for 24 months following the 30-day filing period unless the owner of the well gives written permission to release the reports and information at an earlier date. If the commissioner of natural resources finds that the required reports and information contain significant information relating to the valuation of unleased land in the same vicinity, the commissioner shall keep the reports and information confidential for a reasonable time after the disposition of all affected unleased land, unless the owner of the well gives written permission to release the reports and information at an earlier date. Well location, depth, status and production data and production reports required by the commission to be filed subsequent to the 30-day filing period shall be considered public information and shall not be classified confidential. Production data, as used in this subsection, means volume, gravity and gas-oil ratio of all production of oil or gas after the well begins regular production.

(d) Engineering, geological, and other information not required by (a) of this section but voluntarily filed with the commission shall be kept confidential if the person filing the information so requests.

(e) Notwithstanding (c) of this section, claims of confidentiality will be denied for information disclosed to the commission under AS 31.05.030(h) that is required to be disclosed under 42 U.S.C. 300h-4.

Sec. 31.05.040. Regulations and orders.

(a) The commission shall adopt regulations governing practice and procedure before it under this chapter.

(b) All orders issued by the commission shall be in writing, shall be entered in full and indexed in books kept by the commission for that purpose, and shall be public records open for inspection at all times during reasonable office hours. A copy of an order certified by the commission, under its seal, shall be received in evidence in all courts of the state with the same effect as the original.

Sec. 31.05.050. Notice.

(a) A notice required by this chapter shall be given in accordance with the Administrative Procedure Act (AS 44.62).

(b) Procedures to be followed under (a) of this section do not apply if the nature of the notice is not of a statewide or general application but is concerned only with operations on a single well or within a single field and the modification of procedure is within the authority delegated to the commission under AS 31.05.030 . A notice required by this chapter shall be given by one publication in a newspaper published in the borough

in which the hearing is to be held, or if none is published in the borough, in a newspaper published in this state and circulating within the borough, and posted in at least one public place within the borough, at least 10 days before the date of the hearing. The notice shall be issued in the name of the state, shall be signed by the commission, and shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. The commission may also give, or require the giving of, additional notice in a proceeding, or class of proceeding, which it considers necessary or desirable.

Sec. 31.05.060. Action by commission.

(a) The commission may act upon its own motion, or upon the petition of an interested person. On the filing of a petition concerning a matter within the jurisdiction of the commission under this chapter, the commission shall promptly fix a date for a hearing, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The commission shall enter its order within 30 days after the hearing.

(b) Except as provided in this subsection, any action by the commission under this chapter that has statewide or general application shall be performed in accordance with the Administrative Procedure Act (AS 44.62). Any action by the commission under this chapter that has application to a single well or single field need not comply with the provisions of AS 44.62.330 - 44.62.630, but shall be performed in accordance with regulations of the commission designed to afford persons affected by the action notice and an opportunity to be heard.

Sec. 31.05.070. Attendance and testimony of witnesses.

(a) The commission may summon witnesses, administer oaths, and require the production of records, books and documents for examination at a hearing or investigation conducted by it. A person may not be excused from attending and testifying, or from producing books, papers and records before the commission or a court, or from obedience to the subpoena of the commission or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate or subject that person to a penalty or forfeiture. This section does not require a person to produce books, papers or records, or to testify in response to an inquiry not pertinent to some question lawfully before the commission or court for determination. A natural person is not subject to criminal prosecution or to a penalty or forfeiture for or on account of any transaction, matter or thing concerning which, in spite of objection, that person may be required to testify or produce evidence, documentary or otherwise, before the commission or court, or in obedience to its subpoena. However, a person testifying is not exempt from prosecution and punishment for perjury committed in so testifying.

(b) If a person fails or refuses to comply with the subpoena issued by the commission, or refuses to testify as to any matter regarding which the person may be interrogated, any court of record in the state, upon application of the commission, may issue an attachment for the person and compel that person to comply with the subpoena,

and attend before the commission and produce the records, books, and documents for examination, and give testimony. The court may punish for contempt as in the case of disobedience to a subpoena issued by the court, or for refusal to testify in court.

Sec. 31.05.080. Rehearings and appeals.

(a) Within 20 days after written notice of the entry of an order or decision of the commission, or such further time as the commission grants for good cause shown, a person affected by it may file with the commission an application for the rehearing in respect of the matter determined by the order or decision, setting forth the respect in which the order or decision is believed to be erroneous. The commission shall grant or refuse the application in whole or in part within 10 days after it is filed, and failure to act on it within this period is a refusal of it and a final disposition of the application. If the hearing is granted, the commission may enter a new order or decision after rehearing as may be required under the circumstances.

(b) A party to the rehearing proceeding, dissatisfied with the disposition of the application for rehearing, may appeal from it to the superior court in the judicial district in which any property affected by the decision of the commission is located, by filing a petition for the review of the action of the commission within 20 days after the entry of the order following rehearing or after the refusal of rehearing as the case may be. The petition shall state briefly the nature of the proceedings before the commission and shall set out the order or decision of the commission complained of and the grounds of invalidity of it upon which the applicant will rely. However, the questions reviewed on appeal shall be only questions presented to the commission by the application for rehearing. Notice of appeal shall be served upon the adverse parties and the commission in the manner provided for the service of summons in civil proceedings. The trial upon appeal shall be without a jury, and the transcript of proceedings before the commission, including the evidence taken in hearings by the commission, shall be received in evidence by the court in whole or in part upon offer by either party, subject to legal objections to evidence, in the same manner as if the evidence was originally offered in the superior court. The commission's action complained of is prima facie valid and the burden is upon the party seeking review to establish the invalidity of the action of the commission. The court shall determine the issues of fact and of law and shall, upon a preponderance of the evidence introduced before the court, which may include evidence in addition to the transcript of proceedings before the commission, and the applicable law, enter its order either affirming or vacating the order of the commission. Appeals may be taken from the judgment or decision of the superior court in the same manner as provided for appeals from any other final judgment entered by a superior court.

(c) The pendency of proceedings to review does not of itself stay or suspend operation of the order or decision being reviewed, but during the pendency of the proceedings, the superior court may, upon its own motion or upon proper application of a party, stay or suspend, in whole or in part, operation of the order or decision pending review, on the terms the court considers just and proper and in accordance with the rules of civil procedure. The court, as a condition to staying or suspension of operation of an

order or decision, may require that one or more parties secure, in the form and amount as the court considers just and proper, one or more other parties against loss or damage due to the staying or suspension of the commission's order or decision, if the action of the commission is affirmed.

(d) The rules of practice and procedure in civil cases govern the proceedings for review and appeal to the extent they are consistent with this chapter.

Sec. 31.05.085. Expenses of investigation or hearing.

(a) During a hearing or investigation held under this chapter, the commission may allocate the costs of the hearing or investigation among the parties, including the commission, as is just under the circumstances. In allocating costs, the commission shall consider the regulatory cost charge paid by a person under AS 31.05.093 and may consider the results, evidence of good faith, other relevant factors, and mitigating circumstances. The costs allocated may include

(1) the costs of any time devoted to the investigation or hearing by hired consultants, whether or not the consultants appear as witnesses or participants; and

(2) any out-of-pocket expenses incurred by the commission in the particular proceeding.

(b) The commission shall provide an opportunity for any person objecting to an allocation to be heard before the allocation becomes final.

Sec. 31.05.093. Regulated well regulatory cost charge.

(a) Every person that on the first day of a state fiscal year is the operator of a well for which a permit to drill has been issued under AS 31.05.090 and that has not, before that day, been plugged and abandoned and reported as abandoned in accordance with regulations of the commission shall pay to the commission an annual regulatory cost charge for that fiscal year. A regulatory cost charge may not be collected from a person unless the operation for which the person is responsible is within the jurisdiction of the commission.

(b) The commission shall annually determine regulatory cost charges under this section. The regulatory cost charge to be paid by a person for a state fiscal year must be based on the total volume during the most recently concluded calendar year for the wells described in (a) of this section of which the person was the operator on the first day of the fiscal year as a percentage of the total volume during the same calendar year for all wells described in (a) of this section. For purposes of this subsection, "total volume" means the sum of the volume of all oil and gas produced from a well and all oil, gas, water, and other fluids, including waste slurry, injected into the well. For purposes of determining volume under this subsection, 6,000 cubic feet of gas has a volume that is the equivalent of one barrel of oil.

(c) The commission shall determine the regulatory cost charges levied under this section so that the total amount to be collected approximately equals the appropriations made for the operating costs of the commission under this chapter for the fiscal year, less the estimated total of the fees to be collected under AS 31.05.090 . If the amount the

commission expects to collect under this section and under AS 31.05.090 exceeds the appropriations made for the operating costs of the commission under this chapter, the commission shall, by order, adjust the regulatory cost charges so that the total amount of the regulatory cost charges and fees that are collected approximately equals the appropriations made for the operating costs of the commission under this chapter for the fiscal year.

(d) The commission shall administer the collection of the regulatory cost charges imposed under this section. The Department of Administration shall identify the amount of the appropriations made for the operating costs of the commission under this chapter that lapses into the general fund each year. The legislature may appropriate to the commission for its operating costs under this chapter for the next fiscal year an amount that is at least equal to the lapsed amount. If the legislature makes an appropriation to the commission under this subsection that is at least equal to the lapsed amount, the commission shall reduce the total regulatory cost charge collected for that fiscal year by a comparable amount.

(e) The commission may adopt regulations under AS 44.62 (Administrative Procedure Act) necessary to administer this section, including regulations for investigation of the accuracy of reported information and for collecting required payments.

Article 2. REGULATION OF OPERATIONS.

Section

- 90. Permits and fees to drill wells
- 95. Waste prohibited
- 100. Establishment of drilling units for pools
- 110. Unitization and unitized operation of pools and integration of interests by agreement
- 120. Use of gas from well to manufacture carbon products without permit is prima facie waste
- 130. (Repealed)

Sec. 31.05.090. Permits and fees to drill wells.

A person desiring to drill a well in search of oil or gas shall notify the commission of the person's intent on a form prescribed by the commission and shall pay a fee of \$100 for a permit for each well sought to be drilled. Upon receipt of notification and fee, the commission shall promptly issue a permit to drill, unless the drilling of the well is contrary to law or a regulation or order of the commission, or unless the person is in violation of a commission regulation, order or stipulation pertaining to drilling, plugging or abandonment of a well. The drilling of a well is prohibited until a permit to drill is obtained in accordance with this chapter.

Sec. 31.05.095. Waste prohibited.

The waste of oil and gas in the state is prohibited.

Sec. 31.05.100. Establishment of drilling units for pools.

(a) For the prevention of waste, to protect and enforce the correlative rights of lessees in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, or the reduced recovery which might result from too small a number of wells, the commission shall, after a hearing, establish a drilling unit or units for each pool. The establishment of a unit for gas shall be limited to the production of gas.

(b) Each well permitted to be drilled on a drilling unit shall be drilled under the rules and regulations and in accordance with the spacing pattern as the commission prescribes for the pool in which the well is located. Exceptions to the rules and spacing pattern may be granted where it is shown, after notice and hearing, that the unit is partly outside the pool, or for some other reason a well so located on the unit would be nonproductive, or topographical conditions are such as to make the drilling at such a location unduly burdensome. If an exception is granted, the commission shall take such action as will offset any advantage which the person securing the exception may have over other producers by reason of the drilling of the well as an exception, and so that drainage from developed units to the tract with respect to which the exception is granted will be prevented or minimized, and the producer of the well drilled as an exception will be allowed to produce no more than a just and equitable share of the oil and gas in the pool.

(c) When two or more separately owned tracts of land are embraced within an established drilling unit, persons owning the drilling rights in it and the right to share in the production from it may agree to pool their interests and develop their lands as a drilling unit. If the persons do not agree to pool their interests, the commission may enter an order pooling and integrating their interests for the development of their lands as a drilling unit for the prevention of waste, for the protection of correlative rights, or to avoid the drilling of unnecessary wells. Orders effectuating such pooling shall be made after notice and hearing, and shall be upon terms and conditions which will afford to the owner of each tract the opportunity to recover or receive the owner's just and equitable share of the oil and gas in the pool without unnecessary expense. Operations incident to the drilling of a well upon a portion of a unit covered by a pooling order shall be considered for all purposes to be the conduct of the operation upon each separately owned tract in the unit by the several lessees of it. The portion of the production allocated to the lessee of each tract included in a drilling unit formed by a pooling order shall, when produced, be considered as if it had been produced from the tract by a well drilled on it. If pooling is effectuated, the cost of development and operation of the pooled unit chargeable by the operator to the other interested lessee is limited to the actual and reasonable expenditures for this purpose, including a reasonable charge for supervision. As to lessees who refuse to agree upon pooling, the order shall provide for reimbursement for costs chargeable to each lessee out of, and only out of, production from the unit belonging to such lessee. In the event of a dispute relative to the costs, the commission shall determine the proper costs upon notice to all interested parties and

hearing. Appeals may be taken from the determination as from any other order of the commission. If a lessee drills and operates, or pays the expense of drilling and operating the well for the benefit of others, then in addition to any other right conferred by the pooling order, the lessee drilling or operating has a lien on the share of production from the unit accruing to the interest of each of the other lessees for the payment of the proportionate share of such expenses. All the oil and gas subject to the lien, or so much of the oil and gas subject to the lien as is necessary shall be marketed and sold by the creditor, and the proceeds applied in payment of the expenses secured by the lien, with the balance, if any, payable to the debtor.

(d) The commission shall, in all instances where a unit has been formed out of lands or areas of more than one ownership, require the operator, upon request of a lessee, but subject to the right of the operator to market production and collect the proceeds with respect to a lessee in default, as provided in (c) of this section, to deliver to the lessee or assigns the lessee's proportionate share of the production from the well common to the drilling unit. The lessee receiving a share shall provide at the lessee's own expense proper receptacles for the receipt and storage of it.

(e) If persons owning the drilling or other rights in separate tracts embraced within a drilling unit fail to agree upon the pooling of the tracts and the drilling of the well on the unit, and if the commission is without authority to require pooling as provided by this section, then, subject to all other applicable provisions of this chapter, the lessee of each tract embraced within the drilling unit may drill on the lessee's tract, but the allowable production from the tract shall be the proportion of the allowable production for the full drilling unit as the area of the separately owned tract bears to the full drilling unit.

Sec. 31.05.110. Unitization and unitized operation of pools and integration of interests by agreement.

(a) To prevent, or to assist in preventing waste, to insure a greater ultimate recovery of oil and gas, and to protect the correlative rights of persons owning interests in the tracts of land affected, these persons may validly integrate their interests to provide for the unitized management, development, and operation of such tracts of land as a unit. Where, however, they have not agreed to integrate their interests, the commission, upon proper petition, after notice and hearing, has jurisdiction, power and authority, and it is its duty to make and enforce orders and do the things necessary or proper to carry out the purposes of this section.

(b) If upon the filing of a petition by or with the commission and after notice and hearing, all in the form and manner and in accordance with the procedure and requirements provided in this section, the commission finds that (1) the unitized management, operation and further development of a pool or portion of a pool is reasonably necessary in order to effectively carry on pressure control, pressure-maintenance or repressuring operations, cycling operations, water flooding operations, or any combination of these, or any other form of joint effort calculated to substantially increase the ultimate recovery of oil and gas from the pool; (2) one or more of the unitized methods of operation as applied to the pool or portion of it is feasible, and will

prevent waste and will with reasonable probability result in the increased recovery of substantially more oil and gas from the pool than would otherwise be recovered; (3) the estimated additional cost, if any, of conducting such operations will not exceed the value of the additional oil and gas so recovered; and (4) the unitization and adoption of one or more of the unitized methods of operation is for the common good, it shall make a finding to that effect and make an order creating the unit and providing for the unitization and unitized operation of the pool or portion of it described in the order, upon the terms and conditions, as may be shown by the evidence to be fair, reasonable, equitable, and which are necessary or proper to protect, safeguard and adjust the respective rights and obligations of the several persons affected, including royalty owner, owners of overriding royalties, oil and gas payments, carried interests, mortgages, lien claimants and others, as well as the lessees. The petition shall set out a description of the proposed unit area with a map or plat of it attached, shall allege the existence of the facts required to be found by the commission as provided in this subsection and shall have attached to it a recommended plan of unitization applicable to the proposed unit area and which the petitioner considers to be fair, reasonable and equitable.

(c) The order of the commission shall define the boundary of the area to be included within the unit area and prescribe with reasonable detail the plan of unitization applicable to it. Each unit and unit area may be limited to all or a portion of a single pool. Only so much of a pool or pools as has been defined and determined to be productive on the basis of information available to the commission may be so included within the unit area. A unit may be created to embrace less than the whole of a pool only where it is shown by the evidence that the area to be so included within the unit area is of a size and shape as may be reasonably required for the successful and efficient conduct of the unitized method of operation for which the unit is created, and that the conduct of it will have no material adverse effect upon the remainder of the pool. The plan of unitization for each unit and unit area shall be one suited to the needs and requirements of the particular unit dependent upon the facts and conditions found to exist with respect to it. In addition to other terms, provisions, conditions and requirements found by the commission to be reasonably necessary or proper to carry out the purpose of this chapter, and subject to the further requirements of this section, each plan of unitization shall contain fair, reasonable and equitable provisions for

(1) the efficient unitized management or control of the further development and operation of the unit area for the recovery of oil and gas from the pool affected; under such a plan the actual operations within the unit area may be carried on in whole or in part by the unit itself, or by one or more of the lessees within the unit area as the unit operator subject to the supervision and direction of the unit, dependent upon what is most beneficial or expedient; the designation of the unit operator shall be by vote of the lessees in the unit in a manner provided in the plan of unitization and not by the commission;

(2) the division of interest or formula for the apportionment and allocation of the unit production, among and to the several separately owned tracts within the unit area such as will reasonably permit persons otherwise entitled to share in or

benefit by the production from such separately owned tracts to produce and receive, instead thereof, their fair, equitable and reasonable share of the unit production or other benefits of it; a separately owned tract's fair, equitable, and reasonable share of the unit production shall be measured by the value of each such tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account acreage, the quantity of oil and gas recoverable from it, location on the structure, its probable productivity of oil and gas in the absence of unit operations, the burden of operations to which the tract will or is likely to be subjected, or so many of these factors, or such other pertinent engineering, geological or operating factors as may be reasonably susceptible of determination; "unit production" as that term is used in this chapter means all oil and gas produced from a unit area from the effective date of the order of the commission creating the unit regardless of the well or tract within the unit area from which the same is produced;

(3) the manner in which the unit and the further development and operation of the unit area shall or may be financed and the basis, terms and conditions on which the cost and expense of it shall be apportioned among and assessed against the tracts and interests made chargeable with it, including a detailed accounting procedure governing all charges and credits incident to such operations; upon terms and conditions as to time and rate of interest as may be fair to all concerned, reasonable provision shall be made in the plan of unitization for carrying or otherwise financing lessees who are unable to promptly meet their financial obligations in connection with the unit;

(4) the procedure and basis upon which wells, equipment and other properties of the several lessees within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation for it, or of otherwise proportionately equalizing or adjusting the investment of the several lessees in the project as of the effective date of unit operation;

(5) the creation of an operating committee to have general overall management and control of the unit and the conduct of its business and affairs and the operations carried on by it, together with the creation or designation of other subcommittees, boards or officers to function under the authority of the operating committee as may be necessary, proper or convenient in the efficient management of the unit, defining the powers and duties of all the committees, boards and officers, and prescribing their tenure and time and method for their selection;

(6) the time when the plan of unitization becomes effective;

(7) the time when and the conditions under which and the method by which the unit shall or may be dissolved and its affairs wound up.

(d) [Repealed, Sec. 17 ch 160 SLA 1978].

(e) Except as otherwise expressly provided in this section, all proceedings held under this chapter, including the filing of petitions, the giving of notices, the conduct of hearings and other action taken by the commission shall be in the form and manner and in

accordance with the procedure provided in AS 31.05.040 - 31.05.060. Additional notice shall be given as the commission requires.

(f) From the effective date of an order of the commission creating a unit and prescribing the plan of unitization applicable to it, the operation of a well producing from the pool or portion of it within the unit area defined in the order by persons other than the unit or persons acting under its authority or except in the manner and to the extent provided in the plan of unitization is unlawful and is prohibited.

(g) The obligation or liability of the lessees or other owners of the oil and gas rights in the several separately owned tracts for the payment of unit expense shall at all times be several and not joint or collective and in no event shall a lessee or other owner of the oil and gas rights in the separately owned tract be chargeable with, obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to that lessee's or owner's interest in the separately owned tract under the plan of unitization and then only to the extent of the lien provided for in this chapter.

(h) Subject to such reasonable limitations as may be set out in the plan of unitization, the unit has a first and prior lien upon the leasehold estate and all other oil and gas rights (exclusive of a landowners' royalty interest) in and to each separately owned tract, the interest of the owners in and to the unit production and all equipment in the possession of the unit, to secure the payment of the amount of the unit expense charged to and assessed against such separately owned tract. The interest of the lessee or other persons who by lease, contract or otherwise are obligated or responsible for the cost and expense of developing and operating a separately owned tract for oil and gas in the absence of unitization shall, however, be primarily responsible for and charged with any assessment for unit expense made against the tract and resort may be had to overriding royalties, oil and gas payments, or other interests, except royalty interests, which otherwise are not chargeable with these costs, only in the event the owner of interest primarily responsible fails to pay the assessment of the production to the credit thereof, or production is insufficient for that purpose. If the owner of any royalty interest, overriding royalty, oil or gas payment, or any other interest which under the plan of unitization is not primarily responsible for it pays in whole or in part the amount of an assessment for unit expense for the purpose of protecting such interest, or the amount of the assessment in whole or in part is deducted from the unit production to the credit of such interest, the owner of it is to the extent of the payment or deduction subrogated to all the rights of the unit with respect to the interest or interests primarily responsible for the assessment. The landowners' royalty share of the unit production allocated to each separately owned tract shall be regarded as royalty to be distributed to and among, or the proceeds of it paid to, the landowners, free and clear of all unit expense and free of any lien for it.

(i) Property rights, leases, contracts and all other rights and obligations shall be regarded as amended and modified to the extent necessary to conform to the provisions and requirements of this chapter, and to any valid and applicable plan of unitization or order of the commission made and adopted under this chapter, but otherwise remain in effect.

(j) Nothing contained in this chapter shall be construed to require a transfer to or vesting in the unit of title to the separately owned tracts or leases on them within the unit area, other than the right to use and operate them to the extent set out in the plan of unitization; nor shall the unit be regarded as owning the unit production. The unit production and the proceeds from the sale of it shall be owned by the several persons to whom it is allocated under the plan of unitization. All property, whether real or personal, which the unit may in any way acquire, hold or possess, shall not be acquired, held or possessed by the unit for its own account but shall be acquired, held and possessed by the unit for the account and as agent of the several lessees and shall be the property of the lessees as their interests appear under the plan of unitization, subject, however, to the right of the unit to the possession, management, use or disposal of the same in the proper conduct of its affairs, and subject to any lien the unit may have on it to secure the payment of unit expense. Neither the unit production or proceeds of the sale of it, nor the other receipts shall be treated, regarded, or taxed as income or profits of the unit; but instead, all such receipts shall be the income of the several persons to whom or to whose credit the same are payable under the plan of unitization. To the extent the unit may receive or disburse the receipts it shall only do so as a common administrative agent of the persons to whom the receipts are payable.

(k) The amount of the unit production allocated to each separately owned tract within the unit, and only that amount, regardless of the well or wells in the unit area from which it may be produced and regardless of whether it is more or less than the amount of the production from the well or wells, if any, on any such separately owned tract, shall for all intents, uses and purposes be regarded and considered as production from the separately owned tract, and, except as may be otherwise authorized in this chapter, or in the plan of unitization approved by the commission, shall be distributed among or the proceeds of it paid to the persons entitled to share in the production from the separately owned tract in the same manner, in the same proportions, and upon the same condition that they would have participated and shared in the production or proceeds of it from such separately owned tract had not the unit been organized, and with the same legal effect. If adequate provisions are made for the receipt of it, the share of the unit production allocated to each separately owned tract shall be delivered in kind to the persons entitled to it by virtue of ownership of oil and gas rights in it or by purchase from the owners subject to the rights of the unit to withhold and sell the same in payment of unit expense under the plan of unitization, and subject further to the call of the unit on such portions of the gas for operating purposes as may be provided in the plan of unitization.

(l) An agreement or plan for the development and operation of a field or pool of oil or gas as a unit, if approved by the commission for the purpose of conserving oil or gas, does not violate a statute of the state prohibiting monopolies or acts, arrangements, agreements, contracts, combinations or conspiracies in restraint of trade or commerce.

(m) Operations carried on under and in accordance with the plan of unitization shall be regarded and considered as a fulfillment of a compliance with

all of the provisions, covenants and conditions, express or implied, of the several oil and gas leases upon lands included within the unit area, or other contracts pertaining to the development of it insofar as the leases or other contracts may relate to the pool or portion of it included in the unit area. Wells drilled or operated on any part of the unit area no matter where located shall for all purposes be regarded as wells drilled on each separately owned tract within the unit area.

(n) Nothing in this section or in any plan of unitization shall be construed as increasing or decreasing the implied covenants of a lease in respect to a common source of supply or lands not included within the unit area of a unit.

(o) The unit area of a unit may be enlarged to include adjoining portions of the same pool, including the unit area of another unit, and a new unit created for the unitized management, operation and further development of the enlarged unit area, or the plan of unitization may be otherwise amended, or the unit area contracted, all in the same manner, upon the same conditions and subject to the same limitations as provided with respect to the creation of a unit in the first instance.

(p) An aliquot of unit production may be underlifted or overlifted from a unit established under this chapter or AS 38.05.180 (p) only when it does not create waste, except the commissioner may permit underlifting or overlifting for temporary periods for the purpose of accommodating extraordinary disruptions to an interest owner's production disposal system. Underlifted oil may be recovered by an interest owner at a daily rate not to exceed 10 percent of the owner's working or royalty interest share of daily production at the time of underlift recovery. This subsection applies to all units created after June 30, 1978.

(q) This section applies to all involuntary units formed in the state. Subsections (a) and (g) - (p) of this section apply to all voluntary units formed in the state and to a voluntary cooperative or unit plan of development or operation entered into in accordance with AS 38.05.180(p).

Sec. 31.05.120. Use of gas from well to manufacture carbon products without permit is prima facie waste.

The use of gas from a well producing gas only, or from a well which is primarily a gas well for the manufacture of carbon black or similar products predominantly carbon is declared to constitute waste prima facie, and the gas well shall not be used for this purpose unless it is clearly shown at a public hearing held by the commission, on application of the person desiring to use the gas, that waste would not take place by the use of the gas for the purpose applied for, and that gas which would otherwise be lost is now available for such purpose, and that the gas to be used cannot be used for a more beneficial purpose, such as for light or fuel purposes, except at prohibitive cost, and that it would be in the public interest to grant the permit. If the commission finds that the applicant has clearly shown a right to use the gas for the purpose applied for, it shall issue a permit upon terms and conditions it finds necessary in order to permit the use of the gas and at the same time require compliance with the intent of this section.

Sec. 31.05.130. - 31.05.140 Levy of Tax and Disposition of Funds. [Repealed, Sec. 2 ch 247 SLA 1970].

Repealed or Renumbered

Article 03. GENERAL PROVISIONS

Section

- 150. Penalties
- 160. Injunctive relief
- 170. Definitions

Sec. 31.05.150. Penalties.

(a) A person who negligently violates a provision of this chapter, or a regulation or order of the commission adopted under this chapter, is liable for a civil penalty of no more than \$5,000 a day for each day of violation, unless the penalty for violation is otherwise provided for and made exclusive in this chapter.

(b) A person who, for the purpose of evading this chapter or any regulation or order of the commission adopted under this chapter, knowingly commits an act specified in AS 11.46.630 (a) is guilty of a class A misdemeanor.

(c) A person who knowingly aids or abets another person in the violation of any provision of this chapter, or a regulation or order of the commission adopted under this chapter is subject to the same penalty as that prescribed by this chapter for the violation by the other person.

(d) The penalties provided in this section are recoverable by suit filed by the attorney general in the name and on behalf of the commission in the superior court of the judicial district in which the defendant resides or in which any defendant resides, if there is more than one defendant, or in the superior court of the judicial district in which the violation occurs. The payment of a penalty does not relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of the violation.

(e) The commission may impose a penalty payment on every 1,000 cubic feet of natural gas flared, vented or otherwise determined to be waste as defined in AS 31.05.170 . The penalty shall be the fair market value of the natural gas at the point of waste.

(f) A person who knowingly violates a regulation or order of the commission is guilty of a misdemeanor punishable by a fine of no more than \$5,000 a day for each day of violation.

Sec. 31.05.160. Injunctive relief.

(a) Whenever it appears that a person is violating or threatening to violate any provision of this chapter, or any regulation or order of the commission, the commission shall bring suit against that person in the superior court of the judicial district where the violation occurs or is threatened, to restrain the person from continuing the violation or from carrying out the threat of violation. In the suit, the court shall have jurisdiction to

grant to the commission, without bond or otherwise undertaking, such prohibitory and mandatory injunctions as the facts warrant.

(b) If the commission fails to bring suit to enjoin a violation or threatened violation within 10 days after receipt of written request to do so by a person who is or will be adversely affected by the violation, the person making the request may bring suit to restrain the violation or threatened violation in the court in which the commission may bring suit. If the court finds that injunctive relief should be granted, the commission shall be made a party and shall be substituted for the person who brought the suit, and the injunction shall be issued as if the commission had at all times been the plaintiff.

Sec. 31.05.170. Definitions.

In this chapter, unless the context otherwise requires

- (1) "and" includes "or" and "or" includes "and";
- (2) "correlative rights" mean the opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste the owner's just and equitable share of the oil or gas, or both, in the pool; being an amount, so far as can be practically determined, and so far as can practicably be obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas, or both under the property bears to the total recoverable oil or gas or both in the pool, and for such purposes to use the owner's just and equitable share of the reservoir energy;
- (3) "commission" means the Alaska Oil and Gas Conservation Commission;
- (4) "cubic foot" of natural gas means the volume of gas contained in one cubic foot of space measured at a pressure base of 14.65 pounds per square inch absolute and a temperature base of 60 degrees Fahrenheit;
- (5) "field" means a general area which is underlain or appears to be underlain by at least one pool, and includes the underground reservoir containing oil or gas; and the words "pool" and "field" mean the same thing when only one underground reservoir is involved, but "field" unlike "pool" may relate to two or more pools;
- (6) "gas" includes all natural gas and all hydrocarbons produced at the wellhead not defined as oil;
- (7) "landowner" means the owner of the subsurface estate of the tract affected;
- (8) "oil" includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas;
- (9) "owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil and gas the person produces from a pool for that person and others;
- (10) "person" includes a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes a department, agency or instrumentality of the state or a governmental subdivision of the state;

(11) "pool" means an underground reservoir containing, or appearing to contain, a common accumulation of oil or gas. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "pool";

(12) "producer" means the owner of a well or wells capable of producing oil or gas or both;

(13) "regular production" means continuing production of oil or gas from a well into production facilities and transportation to market, but does not include short term testing, evaluation, or experimental pilot production activities that have been approved by permit or order of the commission;

(14) "waste" means, in addition to its ordinary meaning, "physical waste" and includes

(A) the inefficient, excessive, or improper use of, or unnecessary dissipation of, reservoir energy; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well in a manner which results or tends to result in reducing the quantity of oil or gas to be recovered from a pool in this state under operations conducted in accordance with good oil field engineering practices;

(B) the inefficient above-ground storage of oil; and the locating, spacing, drilling, equipping, operating or producing of an oil or gas well in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas;

(C) producing oil or gas in a manner causing unnecessary water channeling or coning;

(D) the operation of an oil well with an inefficient gas-oil ratio;

(E) the drowning with water of a pool or part of a pool capable of producing oil or gas, except insofar as and to the extent authorized by the commission;

(F) underground waste;

(G) the creation of unnecessary fire hazards;

(H) the release, burning, or escape into the open air of gas, from a well producing oil or gas, except to the extent authorized by the commission;

(I) the use of gas for the manufacture of carbon black, except as provided in this chapter;

(J) the drilling of wells unnecessary to carry out the purpose or intent of this chapter.